

**ASSEMBLY BILL**

**No. 103**

**Introduced by Assembly Member Figueroa**

January 9, 1997

---

---

An act to amend Sections 801, 802, 803, 803.1, and 803.2 of, and to add Section 2027 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 103, as introduced, Figueroa. Physicians and surgeons: professional reporting.

Existing law requires every insurer providing professional liability insurance to a physician and surgeon to report to his or her licensing board a claim or action, and any judgment of a claim, for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or rendering of unauthorized professional services as to any settlement or arbitration award over \$30,000. Existing law also requires every physician and surgeon who does not possess professional liability insurance and, in certain circumstances, claimants who receive the settlement or arbitration award, to similarly report to the appropriate licensing board a claim or action for the above-described damages and failure to so report is subject to criminal sanction.

This bill would delete the requirement that the settlement or arbitration award be over \$30,000, thereby requiring that all of these settlements or arbitration awards be reported. By

changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law requires the Medical Board of California and the Board of Podiatric Medicine to disclose to an inquiring member of the public certain information regarding the status of the license of a licensee and any enforcement actions taken against a licensee by either board or by another state or jurisdiction.

This bill would require disclosure under this provision of any malpractice judgments, settlements and arbitration awards, and hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for a medical disciplinary cause or reason.

Existing law requires any employer who pays or has entered against that employer, a judgment, settlement agreement, or arbitration award over \$30,000 against a physician and surgeon or doctor of podiatric medicine to report that occurrence to the appropriate board.

This bill would delete the requirement that the judgment, settlement agreement, or arbitration award be over \$30,000, thereby requiring that all of such judgments, settlement agreements, or arbitration awards be reported.

This bill also would require the Medical Board of California to post on the Internet certain information regarding licensed physicians and surgeons.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 801 of the Business and  
2 Professions Code is amended to read:  
3 801. (a) Every insurer providing professional  
4 liability insurance to a person who holds a license,



1 certificate or similar authority from or under any agency  
2 mentioned in subdivision (a) of Section 800 (except as  
3 provided in subdivisions (b), (c), and (d)) shall send a  
4 complete report to that agency as to any settlement or  
5 arbitration award over three thousand dollars (\$3,000) of  
6 a claim or action for damages for death or personal injury  
7 caused by that person's negligence, error, or omission in  
8 practice, or rendering of unauthorized professional  
9 services. The report shall be sent within 30 days after the  
10 written settlement agreement has been reduced to  
11 writing and signed by all parties thereto or within 30 days  
12 after service of the arbitration award on the parties.

13 (b) Every insurer providing professional liability  
14 insurance to a physician and surgeon licensed pursuant to  
15 Chapter 5 (commencing with Section 2000) or the  
16 Osteopathic Initiative Act shall send a complete report to  
17 the Medical Board of California or the Osteopathic  
18 Medical Board of California, as appropriate, as to any  
19 settlement or arbitration award ~~over thirty thousand~~  
20 ~~dollars (\$30,000)~~ of a claim or action for damages for  
21 death or personal injury caused by that person's  
22 negligence, error, or omission in practice, or rendering of  
23 unauthorized professional services. The report shall be  
24 sent within 30 days after the written settlement  
25 agreement has been reduced to writing and signed by all  
26 parties thereto or within 30 days after service of the  
27 arbitration award on the parties.

28 (c) Every insurer providing professional liability  
29 insurance to a person licensed pursuant to Chapter 13  
30 (commencing with Section 4980) or Chapter 14  
31 (commencing with Section 4990) shall send a complete  
32 report to the Board of Behavioral Science Examiners as  
33 to any settlement or arbitration award over ten thousand  
34 dollars (\$10,000) of a claim or action for damages for  
35 death or personal injury caused by that person's  
36 negligence, error, or omission in practice, or rendering of  
37 unauthorized professional services. The report shall be  
38 sent within 30 days after the written settlement  
39 agreement has been reduced to writing and signed by all

1 parties thereto or within 30 days after service of the  
2 arbitration award on the parties.

3 (d) Every insurer providing professional liability  
4 insurance to a dentist licensed pursuant to Chapter 4  
5 (commencing with Section 1600) shall send a complete  
6 report to the Board of Dental Examiners of California as  
7 to any settlement or arbitration award over ten thousand  
8 dollars (\$10,000) of a claim or action for damages for  
9 death or personal injury caused by that person's  
10 negligence, error, or omission in practice, or rendering of  
11 unauthorized professional service. The report shall be  
12 sent within 30 days after the written settlement  
13 agreement has been reduced to writing and signed by all  
14 parties thereto or within 30 days after service of the  
15 arbitration award on the parties.

16 (e) Notwithstanding any other provision of law, no  
17 insurer shall enter into a settlement without the written  
18 consent of the insured, except that this prohibition shall  
19 not void any settlement entered into without that written  
20 consent. The requirement of written consent shall only be  
21 waived by both the insured and the insurer. This section  
22 shall only apply to a settlement on a policy of insurance  
23 executed or renewed on or after January 1, 1971.

24 SEC. 2. Section 802 of the Business and Professions  
25 Code is amended to read:

26 802. (a) Every settlement or arbitration award over  
27 three thousand dollars (\$3,000) of a claim or action for  
28 damages for death or personal injury caused by  
29 negligence, error or omission in practice, or the  
30 unauthorized rendering of professional services, by a  
31 person who holds a license, certificate or other similar  
32 authority from an agency mentioned in subdivision (a) of  
33 Section 800 (except a person licensed pursuant to  
34 Chapter 3 (commencing with Section 1200) or Chapter  
35 5 (commencing with Section 2000) of Division 2) or the  
36 Osteopathic Initiative Act who does not possess  
37 professional liability insurance as to that claim shall,  
38 within 30 days after any such written settlement  
39 agreement has been reduced to writing and signed by all  
40 the parties thereto or 30 days after service of the

1 arbitration award on the parties, be reported to the  
2 agency which issued the license, certificate, or similar  
3 authority. A complete report shall be made by  
4 appropriate means by the person or his or her counsel,  
5 with a copy of the communication to be sent to the  
6 claimant through his or her counsel if the person is so  
7 represented, or directly if he or she is not. If, within 45  
8 days of the conclusion of the written settlement  
9 agreement or service of the arbitration award on the  
10 parties, counsel for the claimant (or if the claimant is not  
11 represented by counsel, the claimant himself or herself)  
12 has not received a copy of the report, he or she shall  
13 himself or herself make such a complete report. Failure  
14 of the physician or claimant (or, if represented by  
15 counsel, their counsel) to comply with this section is a  
16 public offense punishable by a fine of not less than fifty  
17 dollars (\$50) or more than five hundred dollars (\$500).  
18 Knowing and intentional failure to comply with this  
19 section, or conspiracy or collusion not to comply with this  
20 section, or to hinder or impede any other person in such  
21 compliance is a public offense punishable by a fine of not  
22 less than five thousand dollars (\$5,000) nor more than  
23 fifty thousand dollars (\$50,000).

24 (b) Every settlement or arbitration award ~~over thirty~~  
25 ~~thousand dollars (\$30,000)~~ of a claim or action for  
26 damages for death or personal injury caused by  
27 negligence, error or omission in practice, or the  
28 unauthorized rendering of professional services, by a  
29 physician and surgeon licensed pursuant to Chapter 5  
30 (commencing with Section 2000) of Division 2, or the  
31 Osteopathic Initiative Act, who does not possess  
32 professional liability insurance as to such claim shall,  
33 within 30 days after any such written settlement  
34 agreement has been reduced to writing and signed by all  
35 the parties thereto or 30 days after service of the  
36 arbitration award on the parties, be reported to the  
37 agency which issued the license, certificate or similar  
38 authority. A complete report shall be made by  
39 appropriate means by the person or his or her counsel,  
40 with a copy of the communication to be sent to the

1 claimant through his or her counsel if he or she is so  
2 represented, or directly if he or she is not. If, within 45  
3 days of the conclusion of the written settlement  
4 agreement or service of such arbitration award on the  
5 parties, counsel for the claimant (or if the claimant is not  
6 represented by counsel, the claimant himself or herself)  
7 has not received a copy of the report, he shall himself or  
8 herself make such a complete report. Failure of the  
9 physician or claimant (or, if represented by counsel, their  
10 counsel) to comply with this section is a public offense  
11 punishable by a fine of not less than fifty dollars (\$50) or  
12 more than five hundred dollars (\$500). Knowing and  
13 intentional failure to comply with this section, or  
14 conspiracy or collusion not to comply with this section, or  
15 to hinder or impede any other person in such compliance  
16 is a public offense punishable by a fine of not less than five  
17 thousand dollars (\$5,000) nor more than fifty thousand  
18 dollars (\$50,000).

19 (c) Every settlement or arbitration award over ten  
20 thousand dollars (\$10,000) of a claim or action for  
21 damages for death or personal injury caused by  
22 negligence, error, or omission in practice, or the  
23 unauthorized rendering of professional services, by a  
24 marriage, family, and child counselor or clinical social  
25 worker licensed pursuant to Chapter 13 (commencing  
26 with Section 4980) or Chapter 14 (commencing with  
27 Section 4990), who does not possess professional liability  
28 insurance as to that claim shall within 30 days after any  
29 such written settlement agreement has been reduced to  
30 writing and signed by all the parties thereto or 30 days  
31 after service of the arbitration award on the parties, be  
32 reported to the agency which issued the license,  
33 certificate, or similar authority. A complete report shall  
34 be made by appropriate means by the person or his or her  
35 counsel, with a copy of the communication to be sent to  
36 the claimant through his or her counsel if he or she is so  
37 represented, or directly if he or she is not. If, within 45  
38 days of the conclusion of the written settlement  
39 agreement or service of the arbitration award on the  
40 parties, counsel for the claimant (or if he or she is not



1 represented by counsel, the claimant himself or herself)  
2 has not received a copy of the report, he or she shall  
3 himself or herself make a complete report. Failure of the  
4 marriage, family, and child counselor or clinical social  
5 worker or claimant (or, if represented by counsel, their  
6 counsel) to comply with this section is a public offense  
7 punishable by a fine of not less than fifty dollars (\$50) or  
8 more than five hundred dollars (\$500). Knowing and  
9 intentional failure to comply with this section, or  
10 conspiracy or collusion not to comply with this section, or  
11 to hinder or impede any other person in that compliance  
12 is a public offense punishable by a fine of not less than five  
13 thousand dollars (\$5,000) nor more than fifty thousand  
14 dollars (\$50,000).

15 SEC. 3. Section 803 of the Business and Professions  
16 Code is amended to read:

17 803. (a) Within 10 days after a judgment by a court  
18 of this state that a person who holds a license, certificate,  
19 or other similar authority from the Board of Behavioral  
20 Science Examiners or from an agency mentioned in  
21 subdivision (a) of Section 800 (except a person licensed  
22 pursuant to Chapter 3 (commencing with Section 1200))  
23 has committed a crime, or is liable for any death or  
24 personal injury resulting in a judgment for an amount in  
25 excess of thirty thousand dollars (\$30,000) caused by his  
26 or her negligence, error or omission in practice, or his or  
27 her rendering unauthorized professional services, the  
28 clerk of the court which rendered the judgment shall  
29 report that fact to the agency that issued the license,  
30 certificate, or other similar authority.

31 (b) Every insurer providing professional liability  
32 insurance to a physician and surgeon licensed pursuant to  
33 Chapter 5 (commencing with Section 2000) shall send a  
34 complete report to the Medical Board of California as to  
35 any judgment ~~in excess of thirty thousand dollars~~  
36 ~~(\$30,000)~~ of a claim for damages for death or personal  
37 injury caused by that licensee's negligence, error, or  
38 omission in practice, or rendering of unauthorized  
39 professional services. The report shall be sent within 30  
40 calendar days after entry of judgment.

1 (c) Notwithstanding any other provision of law, the  
2 Medical Board of California and the California Board of  
3 Podiatric Medicine shall disclose to an inquiring member  
4 of the public information received pursuant to  
5 subdivision (a) regarding felony convictions of, and  
6 judgments in excess of thirty thousand dollars (\$30,000)  
7 against, a physician and surgeon or doctor of podiatric  
8 medicine. The Division of Medical Quality and the  
9 California Board of Podiatric Medicine may formulate  
10 appropriate disclaimers or explanatory statements to be  
11 included with any information released, and may, by  
12 regulation, establish categories of information that need  
13 not be disclosed to the public because that information is  
14 unreliable or not sufficiently related to the licensee's  
15 professional practice.

16 SEC. 4. Section 803.1 of the Business and Professions  
17 Code is amended to read:

18 803.1. (a) Notwithstanding any other provision of  
19 law, the Medical Board of California and the Board of  
20 Podiatric Medicine shall disclose to an inquiring member  
21 of the public information regarding the status of the  
22 license of a licensee, *any malpractice judgments,*  
23 *settlements and arbitration awards, or hospital*  
24 *disciplinary actions that result in the termination or*  
25 *revocation of a licensee's staff privileges for a medical*  
26 *disciplinary cause or reason,* and any enforcement actions  
27 taken against a licensee by either board or by another  
28 state or jurisdiction, including, but not limited to, all of the  
29 following:

- 30 (1) Temporary restraining orders issued.
- 31 (2) Interim suspension orders issued.
- 32 (3) Limitations on practice ordered by the board.
- 33 (4) Public letters of reprimand issued.
- 34 (5) Infractions, citations, or fines imposed.

35 (b) The Division of Licensing and the Board of  
36 Podiatric Medicine may formulate appropriate  
37 disclaimers or explanatory statements to be included with  
38 any information released, and may, by regulation,  
39 establish categories of information that need not be  
40 disclosed to the public because that information is



1 unreliable or not sufficiently related to the licensee's  
2 professional practice.

3 (c) This section shall become operative on July 1, 1995,  
4 only if the board and the Board of Podiatric Medicine do  
5 not adopt regulations regarding disclosure of the  
6 information described in subdivision (a) to inquiring  
7 members of the public by July 1, 1995.

8 SEC. 5. Section 803.2 of the Business and Professions  
9 Code is amended to read:

10 803.2. Every entry of judgment, settlement  
11 agreement, or arbitration award ~~over thirty thousand~~  
12 ~~dollars (\$30,000)~~ of a claim or action for damages for  
13 death or personal injury caused by, or alleging, the  
14 negligence, error, or omission in practice, or the  
15 unauthorized rendering of professional services, by a  
16 physician and surgeon or doctor of podiatric medicine  
17 licensed pursuant to Chapter 5 (commencing with  
18 Section 2000) or the Osteopathic Initiative Act, when that  
19 judgment, settlement agreement, or arbitration award is  
20 entered against, or paid by, the employer of that licensee  
21 and not the licensee himself or herself, shall be reported  
22 to the appropriate board by the entity required to report  
23 the information in accordance with Sections 801, 801.1,  
24 802, and 803 as an entry of judgment, settlement, or  
25 arbitration award against the negligent licensee.

26 "Employer" as used in this section means a professional  
27 corporation, a group practice, a health care facility or  
28 clinic licensed or exempt from licensure under the Health  
29 and Safety Code, a licensed health care service plan, a  
30 medical care foundation, an educational institution, a  
31 professional institution, a professional school or college, a  
32 general law corporation, a public entity, or a nonprofit  
33 organization that employs, retains, or contracts with a  
34 licensee referred to in this section. Nothing in this section  
35 shall be construed to authorize the employment of, or  
36 contracting with, any licensee in violation of Section 2400.

37 SEC. 6. Section 2027 is added to the Business and  
38 Professions Code, to read:

1 2027. The board shall post on the Internet the  
2 following information regarding licensed physicians and  
3 surgeons:

4 (a) With regard to the status of the license, whether or  
5 not the licensee is in good standing, subject to a  
6 temporary restraining order (TRO), or subject to an  
7 interim suspension order (ISO).

8 (b) With regard to prior discipline, whether or not the  
9 licensee has ever been subject to discipline by the board  
10 or another state or jurisdiction.

11 (c) Any felony convictions reported to the board after  
12 January 3, 1993.

13 (d) All cases forwarded by the board to the Attorney  
14 General for filing or all current accusations filed by the  
15 Attorney General.

16 (e) Any malpractice judgment, settlement, or  
17 arbitration award reported to the board after January 1,  
18 1998.

19 (f) All board certifications, insurance plans accepted,  
20 and hospital affiliations.

21 (g) Any hospital disciplinary actions that resulted in  
22 the termination or revocation of a licensee's hospital staff  
23 privileges for a medical disciplinary cause or reason.

24 SEC. 7. No reimbursement is required by this act  
25 pursuant to Section 6 of Article XIII B of the California  
26 Constitution because the only costs that may be incurred  
27 by a local agency or school district will be incurred  
28 because this act creates a new crime or infraction,  
29 eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section  
31 17556 of the Government Code, or changes the definition  
32 of a crime within the meaning of Section 6 of Article  
33 XIII B of the California Constitution.

34 Notwithstanding Section 17580 of the Government  
35 Code, unless otherwise specified, the provisions of this act  
36 shall become operative on the same date that the act  
37 takes effect pursuant to the California Constitution.

